

HECCE 1/31/11, 51

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NATIONAL ABILITY S.A.,

Plaintiff,

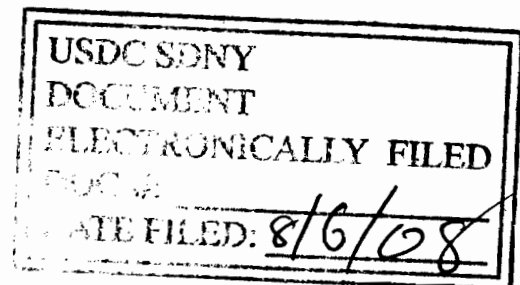
- against -

**TINNA OILS & CHEMICALS LTD.,
TINNA FINEX LTD., TINNA GROUP,
TINNA AGRO INDUSTRIES LTD., ADM
INTEROCEANIC LIMITED, ADM COCOA
PTE. LTD. and ARCHER DANIELS
MIDLAND SINGAPORE PTE LTD.,**

Defendants.

Case No. 07 Civ. 9913 (AKH)

ORDER TO SHOW CAUSE



UPON the reading and filing of the Declaration of Yeong Chye dated July 28, 2008, and the exhibits attached thereto, the Declaration of Richard A. De Palma dated August 5, 2008, and the exhibits annexed thereto, the memorandum of law submitted herewith, and all of the prior pleadings and proceedings heretofore had herein,

LET plaintiff National Ability S.A. show cause before this Court upon oral argument at the

United States Courthouse, 500 Pearl Street, New York, New York 10007, at 10:00 a.m. o'clock in the

noon on the 10th day of August, 2008, or as soon thereafter as counsel can be heard, why an Order should not be issued pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Rules E(2)(a) and E(4)(f) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, 28 U.S.C. § 1927 and the Court's inherent powers:

(1) Vacating, as against defendants ADM Cocoa Pte. Ltd. ("ADM Cocoa") and Tinna Oils & Chemicals Ltd. ("TOCL"): (a) the *Ex Parte* Order for Process of Maritime Attachment and Garnishment dated November 9, 2007; (b) the *Ex Parte* Order for Process of Maritime Attachment and Garnishment dated February 28, 2008; and (c) the Second Amended *Ex Parte*

Order for Process of Maritime Attachment and Garnishment dated July 16, 2008 (collectively, the "*Ex Parte* Attachments");

(2) Dismissing plaintiff's Second Amended Complaint herein in its entirety as against ADM Cocoa and TOCL;

(3) Awarding to ADM Cocoa and TOCL their damages sustained as a result of the prosecution of these proceedings and the wrongful attachment of their assets, including, but not limited to, their costs and reasonable attorneys' fees; and

(4) Granting to ADM Cocoa and TOCL such other and further relief as the Court deems just and proper, and it is further

ORDERED that service of a copy of this Order and the papers upon which it is based be made on plaintiff by delivery to its counsel, Patrick F. Lennon, Lennon, Murphy & Lennon, LLP, 420 Lexington Avenue, Suite 300, New York, New York 10170, (212) 490-6050, by Federal Express or other comparable overnight courier sent on or before Aug. 7, 2008, ^{4:00 pm} and that such service shall be deemed good and sufficient service of this application; and it is further

ORDERED that opposition papers, if any, shall be served on defendants' counsel ^{electronically} so as to be ^{only} in hand on or before Aug. 22, 2008; ^{noon} and it is further

ORDERED that reply papers, if any, shall be served on plaintiff's counsel ^{electronically only} so as to be in hand on or before Aug. 29, 2008; ^{noon} and it is further

ORDERED, that oral argument ^{shall be fixed by the court.} is directed on the return date of this motion.

ENTER:


UNITED STATES DISTRICT JUDGE